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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,833	04/11/2007	Gabor Fazekas	7807-101XX	5383
62836 7590 04/12/2011 BERLINER & ASSOCIATES 555 WEST FIFTH STREET 31ST FLOOR LOS ANGELES, CA 90013				
EXAMINER				
JACYNA, J CASIMER				
ART UNIT		PAPER NUMBER		
3754				
MAIL DATE		DELIVERY MODE		
04/12/2011		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/586,833

Applicant(s)

FAZEKAS ET AL.

Examiner

J. Casimer Jacyna

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 12-21 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 16-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-13 and 21 is/are rejected.
- 7) ☒ Claim(s) 14 and 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2011 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1. Claims 4 and 16-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 7/29/2010.
2. The abstract of the disclosure is objected to because its length exceeds 150 words. Correction is required. See MPEP § 608.01(b).
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1, 2, 5-9 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Morane et al. 4,978,035. Morane discloses an aerosol can adapter including a receiving device 63, a conveying tube 71 shown in the figures with an annular groove that snaps onto a trunk 5, a handle 53, and holding means 62 with the receiving device 63 flexibly integrated into the adaptor and flexibly connected to the conveying tube with bellows 7 and with the shoulder of the conveying tube at the base of 71 where bellows 7 begin being vertically displaced with respect to the receiving device 63 when actuated as shown in figure 3. In regard to claims 5-7 bellows 7 and sidewall 61 form a hollow cylinder of the receiving device with valve disk button 41 projecting into the cylinder and wall 61 concentrically embracing and sealing the valve disk 3 which supports and holds the valve 4. In regard to claim 12, the bellows 7 can also be considered a flexible membrane as claimed which vertically slide toward and away from the valve disk.
5. Claims 1-3, 5-9, 12 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Lasserre et al. 7,017,785. Lasserre discloses an aerosol can adapter including a receiving device 11, a conveying tube 14 which connects to a trunk 24, a

handle 21, and two (see claim 3) snap fit holding means 13, 111 as part of the receiving device 11 with the receiving device flexibly integrated into the adaptor and flexibly connected to the conveying tube 14 with flexible membrane 12 and with the shoulder 14a of the conveying tube begin being vertically displaced with respect to the receiving device 11 when actuated as shown in figure 7. In regard to claims 5-7 the receiving device concentrically embraces and seals the valve disk 32 at 11 and 130. In regard to claim 21, 17 attaches to the aerosol can 30.

6. Claims 1, 2, 5-9, 12, 13 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Wells et al. 5,765,601. The embodiment of figure 3B of Wells discloses an aerosol can adapter including a receiving device 39 which surrounds 21, a conveying tube 52 which connects to a trunk 19, a handle as are the tiered sidewalls that support the flexible membrane actuator 36 (see claim 12) that surrounds and is concentric with the longitudinal axis 18, and snap fit holding means 35, with the receiving device 39 flexibly integrated into the adaptor and flexibly connected to the conveying tube 52 and the holding means 35 via the flexible membrane or corrugated webs 36 that emanate from and surround the longitudinal axis 18 in figure 3B. In regard to claim 21, 66 attaches to the adapter to the aerosol can 12.

7. Claims 14 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Applicant's arguments filed 2/17/2011 have been fully considered but they are not persuasive. No amendment to the Abstract could be found. Applicant contends that

Morane, Lasserre and Wells do not disclose membranes. However, as defined in the specification, the membrane is a flexible wall that supports the tube and connects the tube to the receiving device. Morane, Lasserre and Wells each disclose the tube to be supported by and connected to the receiving device by a flexible wall which is a membrane as claimed.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Casimer Jacyna whose telephone number is 571-272-4889. The examiner can normally be reached on Mon. thru Fri. 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Casimer Jacyna/
Primary Examiner, Art Unit 3754